

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROATH CHU, a married person,

Plaintiff,

Case No. C05-5550B

V.

FRANK RUSSELL COMPANY, a Washington Corporation, JOHN JAMES, a married person, and BRAD JUNG, a married person,

## Defendants

## ORDER

This matter comes before the Court on Defendants' Motion for Summary Judgment on Plaintiff's claims (Dkt. 21) and the Court's Order to Show Cause (Dkt. 30). The Court has reviewed all documents filed in support of and in opposition to this Motion and Order, has reviewed the entire file, and is fully advised.

## I. BASIC and PROCEDURAL FACTS

Plaintiff, a woman of Cambodian descent, began working for Defendant, Frank Russell Company (“Russell”), in August of 2000. Dkt. 1-1. Russell is an international investment strategies firm headquartered in Tacoma, Washington. Dkt. 23-1, at 2. It advises clients regarding their retirement and other benefit plans. *Id.* Plaintiff’s employment with Russell was terminated on August 31, 2004. Dkt. 1-1.

1 On August 18, 2005, Plaintiff filed the instant action, claiming that her termination constituted “a violation  
 2 of her due process rights and liberty interest in employment in violation of the Fifth and Fourteenth  
 3 Amendments to the United States Constitution,” and was a violation of her rights under 42 U.S.C. §§ 1983  
 4 and 1985. Dkt. 1-1, at 5. She also makes the following state law claims: negligence, negligent infliction  
 5 of emotional distress, defamation, wrongful termination, and outrage. *Id.* Plaintiff’s Complaint alleges that  
 6 this Court has jurisdiction over this case pursuant to 28 U.S.C. §1331 (federal question), 28 U.S.C. §1334  
 7 (civil rights), and 28 U.S.C. § 1367 (supplemental jurisdiction). *Id.*, at 2.

8 On November 14, 2006, Plaintiff’s claims under the Fifth and Fourteenth Amendments to the  
 9 United States Constitution and under 42 U.S.C. § 1983 were dismissed because Plaintiff did not point to  
 10 any evidence, nor is there any in the record, that the private party Defendants acted as a result of a  
 11 governmental policy or were in any way state actors. Dkt. 30, at 4. Plaintiff’s claim under 42 U.S.C. §  
 12 1985 was dismissed because Plaintiff failed to point to any evidence of a conspiracy for the purposes of  
 13 depriving her of equal protection of the law or of equal privileges and immunities under the laws or an act  
 14 in furtherance of the conspiracy. *Id.*, at 5. The parties were then ordered to show cause why this Court  
 15 should not decline to exercise supplemental jurisdiction over Plaintiff’s state law claims. *Id.*

16 Defendants urge the Court to retain jurisdiction, arguing that: 1) dismissal of Plaintiff’s federal  
 17 claims does not require a remand of her remaining state claims, 2) judicial economy will be served if the  
 18 Court exercises jurisdiction and resolves the remaining claims, and 3) Plaintiff’s remaining claims, which  
 19 plainly lack merit, do not involve a novel question of state law and can be dismissed with prejudice. Dkt.  
 20 31. Plaintiff argues that the Court should not retain jurisdiction on the state law claims and should allow  
 21 her to pursue her causes of action in state court, if she so chooses. Dkt. 32.

## 22                   **II. DISCUSSION**

23 A district court may decline to exercise supplemental jurisdiction if . . . the district court has  
 24 dismissed all claims over which it has original jurisdiction. 28 U.S.C. § 1337 (c)(3). “[W]hen deciding  
 25 whether to exercise supplemental jurisdiction, a federal court should consider and weigh in each case, and  
 26 at every stage of the litigation, the values of judicial economy, convenience, fairness, and comity.” *City of*  
*27 Chicago v. International College of Surgeons*, 522 U.S. 156, 173 (1997) (internal quotation omitted).  
 28 “[I]n the usual case in which all federal-law claims are eliminated before trial, the balance of factors will

1 point toward declining to exercise jurisdiction over the remaining state-law claims.” *Acri v. Varian*  
2 *Associates, Inc.*, 114 F.3d 999, 1001 (9th Cir. 1997) (*en banc*) (*citing Carnegie-Mellon University v.*  
3 *Cohill*, 484 U.S. 343, 350 n. 7(1998)). Declining jurisdiction is accomplished by dismissal of state claims  
4 without prejudice.

5 In this case, dismissal of the state law claims without prejudice “would most sensibly accommodate  
6 the values of economy, convenience, fairness, and comity.” *See San Pedro Hotel v. City of Los Angeles*,  
7 159 F.3d 470, 478 (9th Cir. 1998) (*internal quotations omitted*). Judicial economy and convenience are  
8 best served by dismissal of Plaintiff’s state law claims without prejudice. Defendants argue that the state  
9 and federal claims are entangled to such a degree as to give this Court a duty to retain jurisdiction and  
10 dismiss the state law claims with prejudice to preserve judicial economy. Dkt. 31, at 6. Defendants cite  
11 *Coe v. County of Cook*, 162 F.3d 491, 496 (7th Cir. 1998) in support of their argument. In *Coe*, the  
12 District Court was held to be in error where it decided federal constitutional claims regarding abortion  
13 notification rights, but declined to exercise jurisdiction over Plaintiff’s state law claims, which also involved  
14 abortion notification rights pursuant to state statute and common law. *Id.* Here, in contrast, Plaintiff’s  
15 federal law claims based on the Fifth Amendment and Fourteenth Amendment to the U.S. Constitution and  
16 her 42 U.S.C. § 1983 claim, were decided based on the fact that there was no evidence of action taken as a  
17 result of a governmental policy or involvement of a state actor. Dkt. 30, at 4. Likewise, Plaintiff’s 42  
18 U.S.C. § 1985 claim was dismissed because there was no evidence of a conspiracy for the purposes of  
19 depriving her of equal protection of the law or of equal privileges and immunities under the laws or an act  
20 in furtherance of the conspiracy. *Id.* No other determinations were necessary, nor would the decisions this  
21 Court made have any impact on Plaintiff’s remaining claims of negligence, negligent infliction of emotional  
22 distress, defamation, wrongful termination, and outrage, unlike was the case in *Coe*. The value of judicial  
23 economy and convenience are best served by dismissal of Plaintiff’s state law claims without prejudice.  
24 The issue of judicial economy and convenience should not be resolved selfishly. Obviously, the economy  
25 and convenience of an individual judge is served by reducing one’s case load. Rather, this issue should be  
26 resolved by determining whether a new judge will have to redo work already done by the judge originally  
27 assigned. Here, the undersigned has no time or work investment in the state claims, and transfer will not  
28 cause a “redo” of any work, except some procedural work to be done by Plaintiff, who favors declination

1 of jurisdiction.

2 Moreover, fairness also weighs in favor of dismissal of Plaintiff's state law claims. Plaintiff, the  
3 party who decides where to file suit, *See Beneficial Nat. Bank v. Anderson*, 539 U.S. 1, 12 (2003), favors  
4 a dismissal without prejudice of her state law claims, Dkt. 32. Lastly, the value of comity favors dismissal  
5 without prejudice. Determination of the state law claims should generally be made in state court. The  
6 balance of factors weighs in favor of dismissing Plaintiff's state law claims without prejudice.

7 **III. ORDER**

8 Therefore, it is hereby, **ORDERED** that:

- 9 • Defendant's Motion for Summary Judgment on all Claims (Dkt. 21) is **DENIED**  
10 **WITHOUT PREJUDICE** as to all state law claims.  
11 • Plaintiff's remaining state law claims are **DISMISSED WITHOUT PREJUDICE** because  
12 this Court declines to exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1337  
13 (c)(3).

14 The Clerk of the Court is directed to send uncertified copies of this Order to all counsel of record  
15 and to any party appearing *pro se* at said party's last known address.

16 DATED this 5<sup>th</sup> day of December, 2006.

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19 Robert J. Bryan  
United States District Judge  
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